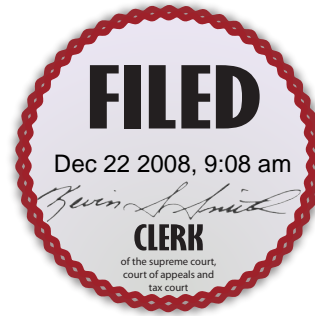


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

BRITTANI N. STOUTS-COATS,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 32A04-0806-CR-331

APPEAL FROM THE HENDRICKS SUPERIOR COURT

The Honorable Karen Love, Judge

Cause No. 32D03-0608-FC-32

December 22, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Brittani N. Stouts-Coats appeals from the trial court's order revoking her probation and executing the balance of her suspended sentence in accordance with the terms of her plea agreement. We affirm.

On January 18, 2007, pursuant to a plea agreement, Stouts-Coats pleaded guilty to one count of class D felony theft in exchange for the dismissal of twenty-one counts of forgery and theft. The plea agreement specifically states that Stouts-Coats will serve her entire suspended sentence upon any probation violation. Appellant's App. at 44. The trial court accepted her guilty plea and sentenced her to 1090 days in the Indiana Department of Correction. The court granted her thirty days of credit for time served and thirty days of good-time credit and suspended the remaining 1030 days to probation.

In March 2007, the State filed two notices of probation violation. The first alleged that Stouts-Coats had tested positive for marijuana and cocaine, and the second alleged that she had failed to report to the probation department. In January 2008, pursuant to an agreement with the State, Stouts-Coats admitted to the second probation violation. In contravention of the plea agreement, the trial court sentenced her to seventy-six days in the Hendricks County Jail, granted her thirty-eight days of credit for time served and thirty-eight days of good-time credit, and continued her probation.

In February 2008, the State filed another notice of probation violation alleging that Stouts-Coats had again possessed cocaine. At a hearing on April 28, 2008, Stouts-Coats admitted to the violation and presented evidence regarding possible punishments. At the conclusion of the hearing, the trial court stated that, based on the plea agreement, it "really

[did not] have a choice” but to execute the remaining 954 days of her suspended sentence. Tr. at 98. The court granted her thirty-three days of credit for time served and thirty-three days of good-time credit.

On appeal from the revocation of her probation, Stouts-Coats challenges the legality of her underlying sentence. The State correctly observes that “a defendant cannot collaterally attack a sentence on appeal from a probation revocation.” *Stephens v. State*, 818 N.E.2d 936, 939 (Ind. 2004) (citing *Schlichter v. State*, 779 N.E.2d 1155 (Ind. 2002)). Therefore, we affirm.¹ See *Schlichter*, 779 N.E.2d at 1157 (affirming probation revocation where defendant challenged legality of underlying sentence on appeal).

Affirmed.

ROBB, J., and BROWN, J., concur.

¹ It is well settled that “a prison sentence, the imposition of probation, or any combination of the two may not exceed the maximum term for the conviction.” *Jester v. State*, 746 N.E.2d 437, 439 (Ind. Ct. App. 2001). A person who commits a class D felony shall be imprisoned for a fixed term of between six months (180 days) and three years (1095 days). Ind. Code § 35-50-2-7. Stouts-Coats’s claim that her sentence is illegal is premised on her contention that she “was sentenced, pursuant to the plea agreement, to 1090 days in the Indiana Department of Corrections, all 1090 suspended with 30 days actual credit time plus 30 days good time credit, and 1030 days of probation, for an aggregate sentence of 2160 days.” Appellant’s Br. at 4. Both her premise and her arithmetic are faulty; as the State correctly observes, the trial court “imposed a sentence of 1090 days, with thirty days of jail credit and thirty days of good time credit, leaving 1030 days, and suspended the remaining 1030 days [to probation]. The sentence of 1090 days was a legal sentence, as that constitutes slightly less than three years imprisonment.” Appellee’s Br. at 4 n.2 (citation to appendix omitted).